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1 — EPA proposes adding old Dallas factory to list of contamination cleanup, WFAA, 2/8/18

<http://www.wfaa.com/news/local/dallas-county/epa-adds-old-dallas-factory-to-list-of-contamination-cleanup/516221716>

There is a new focus on cleaning up some hazardous problems simmering around a near-century-old factory recently shut down in Southeast Oak Cliff.

2 — 4 things to know about the budget accord, E&E News, 2/9/18

<https://www.eenews.net/stories/1060073365>

After hours of delay, Congress overnight signed off on a broad, two-year budget deal to raise spending for much of the federal government. Here are four things the energy and environmental community needs to know about the largest budget deal Capitol Hill has passed in several years.

3 — Harvey relief survives as part of legislation reopening federal government, Houston Chronicle, 2/9/18

<https://www.chron.com/news/politics/article/Harvey-relief-survives-as-part-of-legislation-12564568.php>

In an early Friday morning budget vote that divided both parties, a bipartisan group of lawmakers from Houston stuck together – bound by a dire need for federal assistance in the recovery from Hurricane Harvey.

4 — Ed Emmett lays out case to 'flood-proof' freeways following Harvey, Houston Chronicle, 2/8/18

<https://www.houstonchronicle.com/news/transportation/article/Ed-Emmett-lays-out-case-to-flood-proof-freeways-12558864.php>

Citing truck flows before and after the Gulf Coast got inundated by the storm, Harris County Judge Ed Emmett -- chairman of the Texas Freight Advisory Commission -- encouraged Texas House Transportation Committee members on Wednesday to empower state transportation officials to “flood-proof” some major routes so freight could keep flowing into, and through, the region.

5 — Key air office gets new chief, E&E News, 2/8/18

<https://www.eenews.net/greenwire/2018/02/08/stories/1060073323>

Peter Tsirigotis, a career U.S. EPA employee who has been closely involved in crafting major power plant emissions regulations, is now director of the agency's Office of Air Quality Planning and Standards, a spokesman confirmed today.

6 — Local research lab addresses discrepancies in water contamination levels, News West 9, 2/8/18

<http://www.newswest9.com/story/37461468/local-research-lab-addresses-discrepancies-in-water-contamination-levels>

"In some cases, it's just not economically feasible to get it to that ultra-pure status for the general population, that doesn't mean it's not safe," said Brent Barron, the lab manager of Permian Basin Environmental Lab in Midland, a facility where local water and soil is tested for chemicals.

7 — Bayou Bridge pipeline opponents clear legal hurdle, but bigger decision to come Friday, Baton Rouge Advocate, 2/8/18

http://www.theadvocate.com/baton_rouge/news/environment/article_c9b04c56-0d28-11e8-a19d-d70e98b53ec0.html

A federal judge has kept a fight alive as environmental groups seek to shut down construction of the Bayou Bridge pipeline. Construction recently began on the pipeline and is scheduled to be completed by the end of the year. The pipeline is designed to carry crude oil between Lake Charles and St. James Parish.

8 — Trump admin touts enforcement data and draws fire, E&E News, 2/8/18

<https://www.eenews.net/eenewspm/2018/02/08/stories/1060073337>

U.S. EPA, its enforcement record under close scrutiny since President Trump took office, today released numbers for last year that a top official touted as evidence of the agency's commitment to ensuring compliance with environmental laws.

9 — Fla., Texas 'highly exposed' to climate risks — Moody's, E&E News, 2/9/18

<https://www.eenews.net/climatewire/2018/02/09/stories/1060073381>

Florida and Texas are "highly exposed" to the effects of climate change but remain financially strong, despite the havoc hurricanes wreaked last year, Moody's Investors Service said.

10 — Final EPA toxic chemical rule proposes \$20 million in annual fees to manufacturers, The Hill, 2/8/18

<https://www.agprofessional.com/article/states-tighten-dicamba-regulations>

The Environmental Protection Agency's (EPA) fourth and final rulemaking to revamp a chemical safety rule would collect more than \$20 million annually from chemical and petroleum manufacturers and distributors.

EPA proposes adding old Dallas factory to list of contamination cleanup

Demond Fernandez, WFAA 6:25 PM. CST February 08, 2018



(Photo: WFAA)

DALLAS – There is a new focus on cleaning up some hazardous problems simmering around a near-century-old factory recently shut down in Southeast Oak Cliff.

The Environmental Protection Agency (EPA) announced it proposed adding Lane Plating Works, Inc. to its National Priorities List of contamination sites that need to be cleaned up.

The facility, located on the 5300 block of Bonnie View Road is now closed, due to violations, investigations and bankruptcy filing, according to the EPA.

"I got a notice in the mail," said Will Williams. He lives nearby in the Highland Woods community. Williams said neighbors have been receiving updates about the contamination around the facility.

Other neighbors said they noticed investigators poking around Lane Planting Works months ago.

One neighbor on Cardiff Street who identified himself as "William" said, "They was testing the soil, and they had a posted guard and they had about three or four different trailers there."

Government documents show the former electroplating factory conducted hard chromium and cadmium plating on site for 90 years. According to EPA reports, contaminants including cyanide, lead, mercury, and chromium have been found in the soils on-site.

"I think that's dangerous," William said.

Reports show the hazards are also present in underlying groundwater and sediments downstream from the factory, which shut down in 2016.

The EPA has been working with the Texas Commission on Environmental Quality to mitigate the hazards at the site. Both agencies said the location will require long-term remedial clean-up.

"They need to clean that area up," said Will Williams. "Most definite."

Neighbors near the old Lane Plating Works site said they do not want known environmental hazards lingering around their residential areas too much longer.

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APPROPRIATIONS

4 things to know about the budget accord

George Cahlink, Kellie Lunney and Geof Koss, E&E News reporters
E&E Daily: Friday, February 9, 2018



Senate Minority Leader Chuck Schumer (D-N.Y.) and Senate Majority Leader Mitch McConnell (R-Ky.) walking through the halls of the Senate during this week's budget negotiations. J. Scott Applewhite/Associated Press

After hours of delay, Congress overnight signed off on a broad, two-year budget deal to raise spending for much of the federal government.

The agreement — passed 71-28 in the Senate and 240-186 in the House — will now pave the way for Congress to write the 12 annual appropriations bills that direct dollars to specific agencies and programs.

Here are four things the energy and environmental community needs to know about the largest budget deal Capitol Hill has passed in several years.

1. Agencies won't see new money yet

Lawmakers backed a deal that will raise federal discretionary spending by about \$300 billion over the next two years for both defense and non-defense agencies.

Slightly less than half of the funding, \$141 billion, will go toward domestic programs. It will be at least six weeks before any of those dollars are doled out.

In the meantime, all federal agencies will continue to operate under fiscal 2017 spending levels through March 23 to give appropriators time to write an omnibus.

That spending bill would come nearly halfway into fiscal 2018, which began on Oct. 1. Under federal budgeting rules, those dollars are not prorated, so agencies will still receive fresh funding for all 12 months of the year.

2. Spending increases will be targeted

Congress may have raised overall domestic spending caps, but the new dollars will target specific programs rather than providing across-the-board hikes.

"We are not handing these increases out uniformly and some areas will get cuts, it's not like everyone is going to be spared by this," said Rep. Tom Cole (R-Okla.), a senior member of the Appropriations Committee.

Rep. Ken Calvert (R-Calif.), chairman of the House Interior-EPA spending panel, said several EPA grant programs would get a "strong look" for additional funds in what he said would be bipartisan negotiations.

Calvert specifically cited potential increases for State and Tribal Assistance grants, Water Infrastructure Finance and Innovation Act grants and Diesel Emission Reduction Act grants.

Calvert also said he was concerned that capital spending accounts have been severely cut in recent years to help cover operating costs. He said he'd like to increase capital funding for some overdue Interior Department projects.

On the Energy and Water spending bill, bipartisan support could come for the House restoring at least some of the funding for the Advanced Research Projects Agency-Energy.

The chamber sided with the White House in zeroing out the Department of Energy laboratory to cover other needs in earlier spending plans, while Senate appropriators want to increase the agency's annual budget by 8 percent.

3. Policy riders may still emerge

No controversial energy or environmental provisions were in the budget deal, but policy riders still could be attached to the omnibus.

Dozens of riders have advanced through the full House or Senate panels, including more than three dozen related to Interior and EPA.

Riders on the table aim to limit legal challenges for new regulations the Trump administration plans to promulgate as replacements for Obama-era actions.

Still, GOP appropriator say there's less pressure to attach riders this year with Republicans in control of both houses of Congress and the White House.

In many cases, the GOP has already been able to block or promote its preferred environmental and energy policies via the Congressional Review Act or executive orders.

4. Infrastructure money

The budget deal calls for spending about \$20 billion of the discretionary spending increase over two years on infrastructure, including rural water and wastewater, clean and safe drinking water, rural broadband, energy and surface transportation projects.

Sen. Lisa Murkowski (R-Alaska), who chairs the Energy and Natural Resources Committee and the Interior and the Environment Appropriations Subcommittee, said the money will be appropriated at a later time.

"It is the spirit and intent of this agreement that appropriators will direct the resources toward all of this various infrastructure, including energy," she told E&E News yesterday.

That was an acknowledgement that Appropriations Committee members should make the funding decisions, with a "little direction" from the leaders of both parties, she said.

"I'm going to look at that and say, 'OK there's clearly a stated priority between the majority and minority leader, the two caucuses, that this should be a priority. How are we going to make this work?'" she said.

House Natural Resources Chairman Rob Bishop (R-Utah) said he wasn't sure yet where the \$20 billion ultimately would be allocated.

"That's what we are going to have to work out with Shuster," said Bishop, referring to House Transportation and Infrastructure Chairman Bill Shuster (R-Pa.). Bishop's Natural Resources panel will work with other committees that have jurisdiction over infrastructure to determine policy priorities.

"To be honest, we have a lot of water projects that we would like," Bishop told E&E News yesterday, adding that "most of the things that we want are process reforms" such as streamlining the permitting process. "So the federal government could actually work, which would be a miracle."

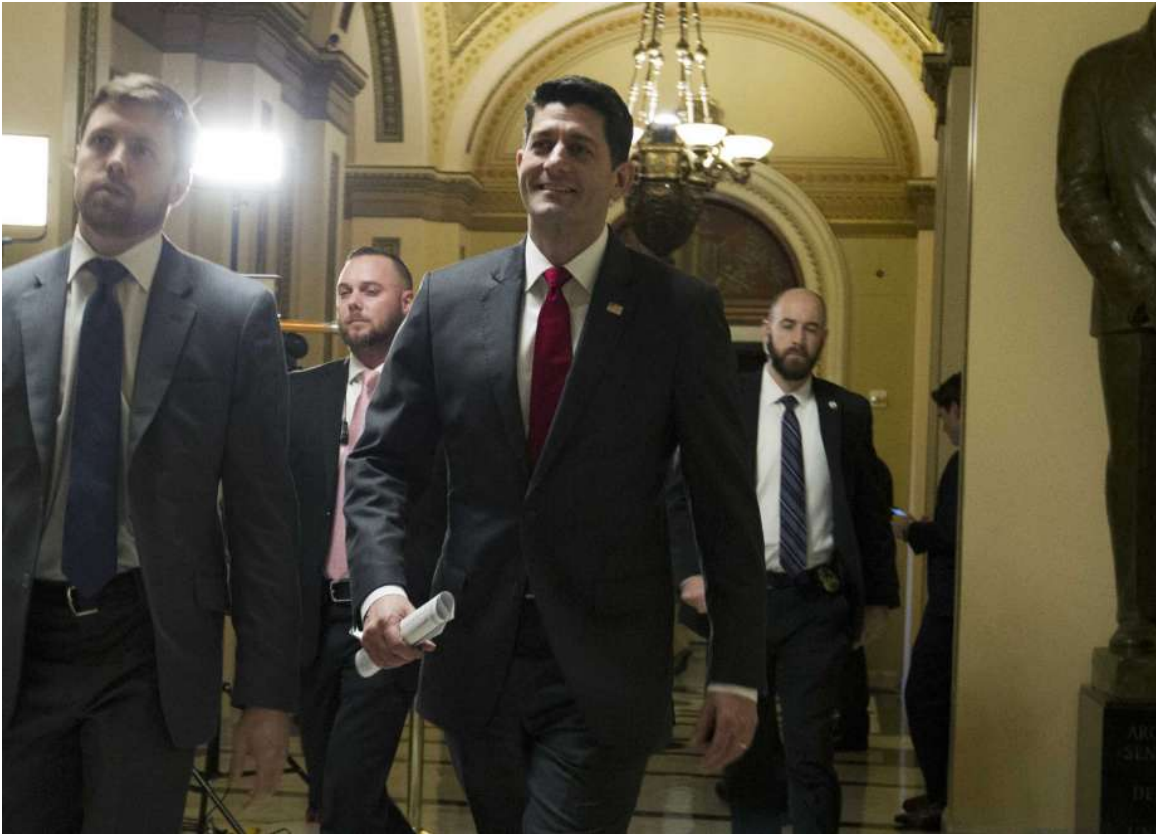
Rep. Bill Flores (R-Texas), a member of the Energy and Commerce Committee, said he'd like some of the dollars to go toward making upgrades to the electric grid, including improving cybersecurity systems and expanding load capacities for distribution systems.

Flores said the \$20 billion "primes the pump" for a much larger infrastructure plan that the White House will roll out as soon as Monday.

Harvey relief survives as part of legislation reopening federal government

Texas officials have felt the next disaster relief action has been delayed far too long

By **Kevin Diaz** Updated 8:25 am, Friday, February 9, 2018



House Speaker Paul Ryan of Wis., said Thursday he could deliver the House on the spending bill, but the hard-right Freedom Caucus says it won't back the bipartisan effort.

WASHINGTON – In an early Friday morning budget vote that divided both parties, a bipartisan group of lawmakers from Houston stuck together – bound by a dire need for federal assistance in the recovery from Hurricane Harvey.

Republicans and Democrats representing the storm-torn Gulf Coast overlooked their respective reservations about the budget deal to keep the government open, opting instead to take an \$89.3 billion disaster recovery package.

The 240-186 House vote shortly after 5:30 a.m. (eastern time) augured the end of what had been a brief government shutdown, the second in a month.

Four Texas Republicans joined the 67 House GOP members who balked at the two-year, \$320 billion spending agreement, which conservatives said would bloat the nation's debt.

Of the four – Joe Barton, Jeb Hensarling, John Ratcliffe, and Louis Gohmert – only Gohmert, a leading member of the conservative House Freedom Caucus, represents a district affected by Harvey.

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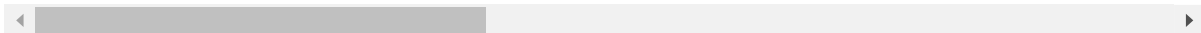
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Three Texas Democrats joined 119 Democrats in total who also voted no: Joaquin Castro, Lloyd Doggett and Marc Veasy.

Many Democrats aligned with Minority Leader Nancy Pelosi, who had spoken on the House floor for eight hours in protest of a deal that failed to address the legal status of "Dreamers," immigrants brought into the country illegally as children.

Houston Democrat Sheila Jackson Lee, who joined the majority, cited the importance of the storm recovery funds, which were increased from an earlier \$81 billion House-approved package.

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"The action this morning addresses one of the major priorities facing the nation—that of disaster relief," she said. "Now, we must move forward with the extremely important and urgent business of providing relief to our nation's Dreamers who are living under the constant threat of deportation."

Gohmert said the disaster aid package – which is not all earmarked for Texas – was not sufficient to overcome his concerns about deficit spending.

"The vote today for a spending bill that in essence runs up our deficit \$1 Trillion was an exceedingly difficult one because of some of the things that were cynically put into the bill," he said. "As a Texan, I support helping those devastated by natural disasters, but asking that we borrow a trillion dollars, so Texas can get \$25 billion or so is not a good deal."

An earlier vote in the Senate split 71-28, also along bipartisan lines. Both Texas U.S. Sens. John Cornyn and Ted Cruz voted for the budget deal, though Cruz, citing deficit concerns, said he did so "reluctantly."

Cornyn, the No. 2 Republican in the Senate, was a key figure in whipping GOP support for the agreement, which was delayed past a midnight government funding deadline because of the objections of Kentucky U.S. Sen. Rand Paul and other fiscal hawks.

Paul rebuffed several entreaties from Cornyn late Thursday night to drop procedural tactics and allow a vote before the midnight deadline, pushing the final votes into the early morning hours.

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Ed Emmett lays out case to 'flood-proof' freeways following Harvey

By **Dug Begley** | February 7, 2018 | Updated: February 8, 2018 12:02pm



Photo: Elizabeth Conley

IMAGE 1 OF 4

Flooded freeway intersection of Interstate 45 and Interstate 69 in downtown Houston as a result of Hurricane Harvey on Aug. 27.

If Harris County Judge Ed Emmett had to summarize his comments to state lawmakers regarding transportation needs in the wake of Harvey to a bumper sticker, it would have been “Keep Truckin’.”

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Citing truck flows before and after the Gulf Coast got inundated by the storm, Emmett -- chairman of the Texas Freight Advisory Commission -- encouraged Texas House Transportation Committee members on Wednesday to empower state transportation officials to “flood-proof” some major routes so freight could keep flowing into, and through, the region.

“This becomes a national event when you shut down all of the traffic,” Emmett said.

To make his point, Emmett showed truck flows on Aug. 20, the Sunday prior to Harvey.

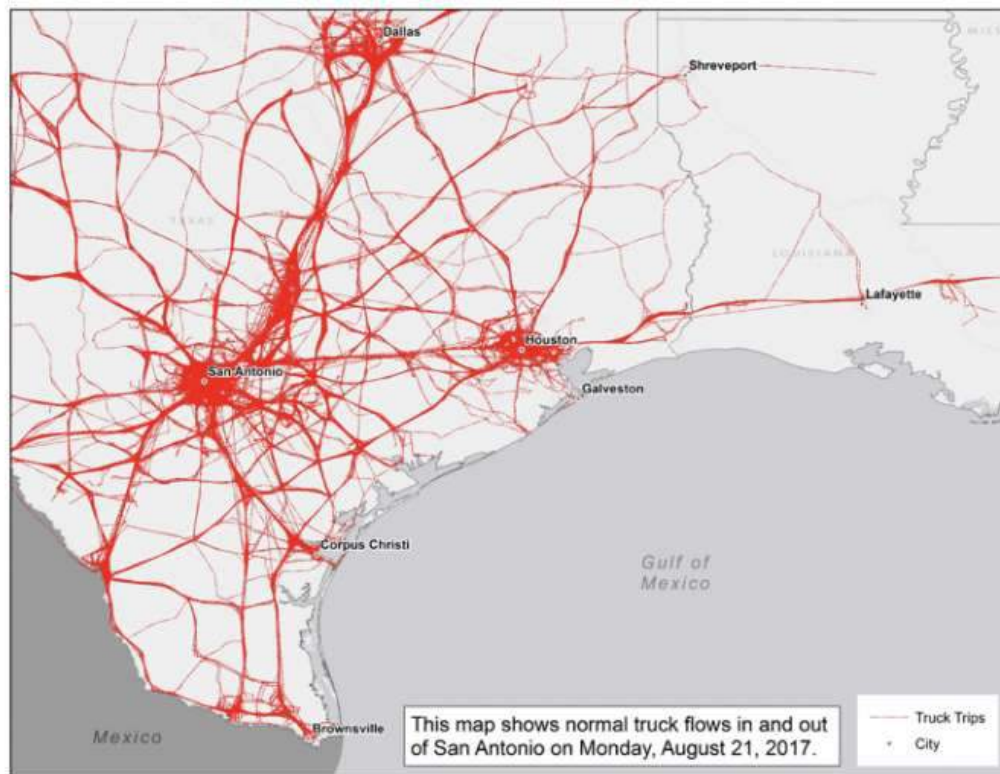


Then he showed truck volumes from 6 p.m. to midnight as officials scrambled to assess road conditions and respond to flooded regions.

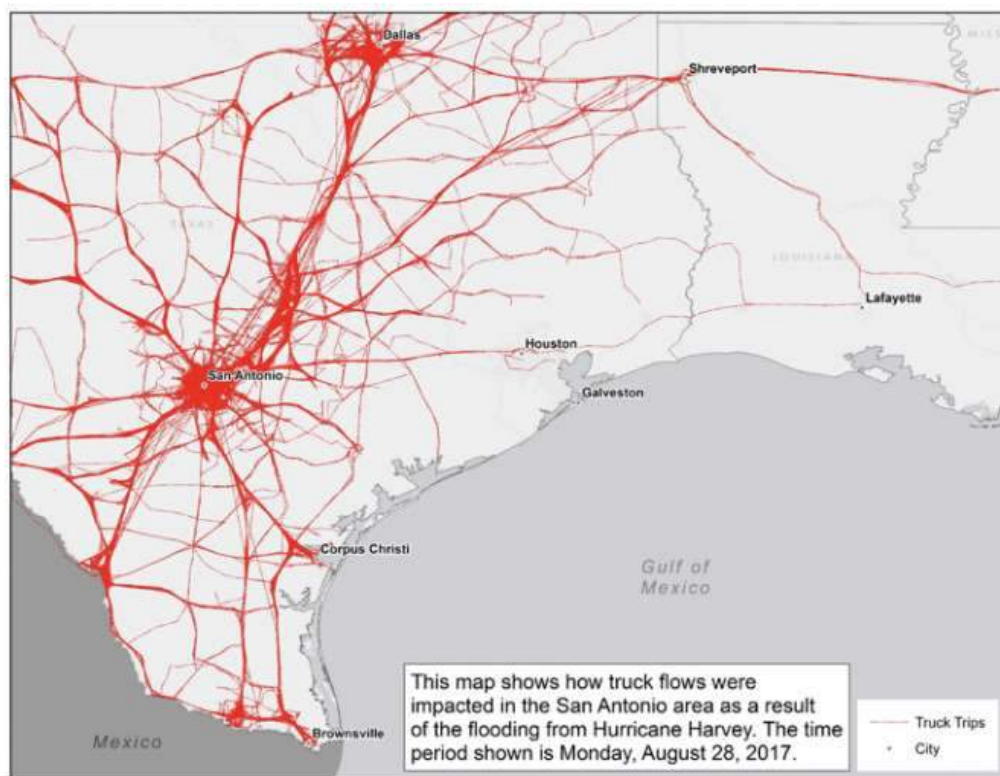
“You can see everything came to a standstill,” Emmett said.



Backing the map out a bit, Emmett showed how that shutdown stymied overall truck traffic, with truck flows of again on Aug. 20.



Then the effect as the rains continued.



Parking those trucks because they have no safe way to travel as water topped state highways leads to a number of problems. For those in the region, it slows bringing in needed goods, some critically necessary. The Texas Medical Center, for example, lost vital access to materials, he said.

Though officials said Houston area freeways fared fairly well, given the volume of water the storm dumped on the region, many remained impassable for hours or days. Every major freeway in every direction from downtown Houston was closed by the storm, as well as portions of freeways that circle parts of the area, such as Loop 610 and the Grand Parkway.



Photo: Charlie Riedel, Associated Press

After helping the driver of the submerged truck get to safety, a man floats on the freeway flooded by Tropical Storm Harvey on Aug. 27, near downtown Houston.

Many freeways faced closings in multiple spots, along some of the biggest freight routes in the nation. Interstate 10 near Addicks Reservoir was nearly closed when water flowed onto the freeway. The Texas Department of Transportation hurried to install a hydrodam to keep lanes open. I-10 was also closed around Shepherd by high waters from Buffalo Bayou.



"There were a lot of trucks that were trying to get in to bring supplies during Hurricane Harvey, and because so many of the roadways were under water, it made it very, very difficult," Houston Mayor Sylvester Turner said. "We had a lot of delays and ended up having to fly things in."

A depressed section of the Sam Houston Tollway also was damaged by the storm and closed. That led to major traffic jams for more than a week as commuters and trucks transitioned to alternative routes.

Turner said Emmett's proposal is "worth studying" and tasked city "flood czar" Steve Costello and Houston Public Works Director Carol Haddock with exploring options.

"Anything that will help to make us more resilient and to allow access in and out of our roadways, especially our freeways, would be a big plus," Turner said.

“Flood-proof” roads, however, are a costly and complicated proposition. It would require roads with immense drainage designs with the capacity to move water off the lanes and then potentially hold it for long durations as rivers and bayous break their banks.

TRUCK TROUBLES: Uptick in hazmat spills add to freeway woes

Plus, once freight moves off the freeway system, it still must get to its destination along county or city streets, along with more minor highways in state control. Hundreds of those paths also

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closed as rains poured down.



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“For some time during the peak of evacuations, we were down to one evacuation route,” Fort Bend County Judge Bob Hebert told the transportation committee. “We cannot allow flooding of secondary state highways affect our ability to evacuate.”

MAJOR CONSTRUCTION: Loop 610 at I-69 near Uptown headed for rebuilding

Lawmakers also cautioned officials to set realistic goals. State Rep. Joe Pickett, D-El Paso, said perhaps a better standard would be “flood resistant,” given the potential for catastrophic rains -- especially after three straight years of flood events.

“Once we put up a sign that says ‘flood proof,’ we prove it wrong,” Pickett said.

Rebecca Elliott contributed to this story.

Dug Begley write about transportation for the Chronicle. Follow him on Twitter at @DugBegley and Facebook at @PoppedClutchCity. Send him tips at dug.begley@chron.com



Dug Begley

Transportation Writer,
Houston Chronicle

EPA

Key air office gets new chief

Sean Reilly, E&E News reporter

Published: Thursday, February 8, 2018

Peter Tsirigotis, a career U.S. EPA employee who has been closely involved in crafting major power plant emissions regulations, is now director of the agency's Office of Air Quality Planning and Standards, a spokesman confirmed today.

He replaced Stephen Page, who recently retired.

Tsirigotis had previously headed the Sector Policies and Programs Division within the air quality standards office, which is based in Research Triangle Park, N.C., and falls under the umbrella of EPA's Office of Air and Radiation. After Page retired, Tsirigotis became the office's acting director. Late last month, Bill Wehrum, head of the Office of Air and Radiation, decided to make him permanent, spokesman John Millett said today.

The air quality standards office, often known by its acronym as OAQPS, is charged with developing regulations to reduce air pollution. It has the lead, for example, in crafting and implementing the ambient limits for ground-level ozone and other common pollutants. As of the end of 2016, the office had about 350 employees, according to EPA data obtained under the Freedom of Information Act.

EPA had not formally announced Tsirigotis' appointment, although he is listed as OAQPS director on an agency website. The leadership turnover is the first for the office in many years; Page had been director since at least 2003, according to public records.

Tsirigotis, who did not reply to phone and emailed requests late yesterday for his full EPA resume, had headed the Sector Policies and Programs Division since 2006, according to a court filing last year. The division's responsibilities include writing regulations for power plants and other stationary source polluters. Among other accomplishments, he oversaw development of both the Mercury and Air Toxics Standards and the Clean Power Plan, John Walke, head of the Natural Resources Defense Council's clean air program, said in an interview.

"He's very smart, and he's very knowledgeable," Walke said.

Because Tsirigotis also worked closely with Wehrum when the latter earlier served in the Office of Air and Radiation from 2001 to 2007 as part of President George W. Bush's administration, the two know each other well, Walke said.

Also lauding Tsirigotis was Janet McCabe, who served as acting EPA air chief during part of the Obama administration. "He's a great manager," she said in a phone interview yesterday, knows Clean Air Act programs "very well" and is accomplished in working with stakeholders.

Under President Trump, however, Tsirigotis is now charged with pursuing an agenda in some cases designed to roll back the policies he oversaw during the Obama administration. When EPA published its proposed rule to repeal the Clean Power Plan last October, for example, he was listed as the agency contact.

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Bayou Bridge pipeline opponents clear legal hurdle, but bigger decision to come Friday

BY STEVE HARDY | SHARDY@THEADVOCATE.COM FEB 8, 2018 - 6:40 PM



Henderson Mayor Pro-Tem Jody Meche speaks against the pipeline during a Bayou Bridge Pipeline hearing at the Galvez Building Thursday.

Advocate Staff Photo by PATRICK DENNIS

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Steve Hardy

A federal judge has kept a fight alive as environmental groups seek to shut down construction of the Bayou Bridge pipeline.

Construction recently began on the pipeline and is scheduled to be completed by the end of the year. The pipeline is designed to carry crude oil between Lake Charles and St. James Parish.



Bayou Bridge Pipeline begins construction in Louisiana amid protests, legal challenges

Story Continued Below

Opponents are asking U.S. District Court Judge Shelly Dick to block construction while the court considers rescinding a necessary U.S. Army Corps of Engineers permit.

Dick determined Thursday that allowing construction to continue would cause "irreparable harm" because construction crews would continue cutting down centuries-old cypress trees. She has yet to determine if the plaintiffs have a chance of winning the suit to pull the permit but indicated she would make a ruling Friday following more arguments.



Louisiana environmental groups turn to courts in Bayou Bridge pipeline battle

In court, environmentalists and a crawfisherman showed photos of trees reduced to mulch in the Atchafalaya Basin. Among the culled trees were old-growth bald cypresses.

Pipeline attorney William Scherman said Bayou Bridge is prepared to spend \$20 million to perform offsetting environmental projects known as wetlands mitigation. However, Scott Eustis, community science director for the Gulf Restoration Network, testified the mitigation would take place 55 miles away. Clemson ecology professor William Conner said the project the Corps agreed to would replant bottomland hardwood forests, not swamps.

"It's two different kinds of forest performing two different kinds of function. ... I don't think the mitigation will replace what is going to be cut, simple as that," Conner said on the stand.

Dick agreed, reasoning that if a driver crashes into a person and the victim loses an arm, the at-fault driver may pay restitution, but it doesn't cause the arm to grow back.

"Mitigation doesn't repair a harm," she said.

Should the suit continue, the judge determined, there would be reason to halt construction while the full matter is argued. Having cleared that hurdle, the plaintiffs, represented by attorneys from the nonprofit Earthjustice, will now have to demonstrate that the Corps was wrong to issue the permit.

The Corps is represented by U.S. Department of Justice attorneys, though they left most of the Thursday's arguments to Scherman, who is representing Energy Transfer Partners, the majority shareholder of Bayou Bridge, LLC, which intervened in the suit.

Scherman said pipeline opponents have been concerned with spoil banks, the piles of dirt that have historically been left over from burying pipelines that create dams that block the flow of water.

However, as a condition of the permit, Bayou Bridge must ensure that the land is returned to its pre-construction state, including the natural contours of the land. To side with the plaintiffs, the judge would "have to assume a regulatory failure" on the Corps' part, Sherman said.

Furthermore, while some, like crawfishermen, have called for Bayou Bridge to remove existing spoil banks on other companies' properties, the Corps reviewed the permit and, after consideration, decided that other wetlands mitigation was more appropriate, the attorney continued.

Dick will decide Friday whether the suit shall proceed and construction halted in the interim. The hearing will begin at 9 a.m. in the U.S. District Court in Baton Rouge. There is a separate but related suit pending in the 23rd district court in St. James challenging the Louisiana Department of Natural Resource's permit allowing construction of Bayou Bridge in the state's coastal zone.



Bayou Bridge doesn't have to turn over records to environmental groups, Baton Rouge judge rules



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Local research lab addresses discrepancies in water contamination levels

Published: Thursday, February 8th 2018, 1:43 pm CST

Updated: Thursday, February 8th 2018, 10:14 pm CST

By Dana Morris, Multimedia Journalist

(KWES) - "In some cases, it's just not economically feasible to get it to that ultra pure status for the general population, that doesn't mean it's not safe," said Brent Barron, the lab manager of Permian Basin Environmental Lab in Midland, a facility where local water and soil is tested for chemicals.

Barron has been testing water for more than eight years.

"In some cases, people consider the EPA's guideline to be too strict," said Barron.

He says it's no question whether the legal limits for contaminants set by the government-run Environmental Protection Agency are safe.

"I think in some cases they may be a little too stringent and others I think they're right on. They have an army of people studying it all the time," said Barron.

That's why he believes the contaminant level limits a part of the non-profit organization "Environmental Working Group's" health guideline are a bit out of context.

"I believe the EPA's are probably more realistic, especially in area like ours, like West Texas," said Barron.

Though, Barron admits, there is one aspect of local tap water he isn't a big fan of.

"The biggest thing I found is the taste of bottled water is better than the tap water," said Barron.

He says the salty, and at times, musty taste of tap water comes from organic compounds found in lakes.

"They aren't very harmful, they're just unpleasant to drink," said Barron.

As for drinking it himself, he says if there's no bottled water around, he doesn't hesitate to drink from the tap.

"My philosophy has always been after working in water treatment for eight years. I'll always drink tap water," said Barron.

For a full list and more information about those contaminants, visit the EWG's tap water database at <https://www.ewg.org/tapwater/index.php#.WneoZa6nEdU>.

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EPA

Trump admin touts enforcement data and draws fire

Sean Reilly and Amanda Reilly, E&E News reporters

Published: Thursday, February 8, 2018



U.S. EPA issued enforcement statistics for 2017. Robin Bravender/E&E News

U.S. EPA, its enforcement record under close scrutiny since President Trump took office, today released numbers for last year that a top official touted as evidence of the agency's commitment to ensuring compliance with environmental laws.

"A strong enforcement program is essential to achieving positive health and environmental outcomes," Susan Bodine, who has headed the agency's Office of Enforcement and Compliance Assurance (OECA) since December, said in a [news release](#).

During fiscal 2017, Bodine said, EPA focused on deterring noncompliance, expediting site cleanups and bringing facilities back into compliance "while respecting the cooperative federalism structure of our nation's environmental laws."

Among the highlights singled out in the release:

- \$1.6 billion in judicial and civil penalties. EPA says that 2017 total is higher than the amounts imposed in any of the preceding 10 years with the exception of 2016.
- An increase in the value of commitments by private parties for cleanups of contaminated sites to more than \$1.2 billion.
- The total of criminal fines, restitution and mitigation rose to \$2.98 billion.

But fiscal 2017 also encompasses the final months of the Obama administration. In a statement, Cynthia Giles, who headed OECA from 2009 to the beginning of 2017, accused the Trump administration of claiming credit for cases it had nothing to do with.

Almost all the civil penalties "were under a signed, filed and public agreement" before Trump took office on Jan. 20, 2017, Giles said. At most, she added, EPA under Administrator Scott Pruitt "is responsible" for about 2 percent of the total.

Similarly, Giles said, \$2.83 billion in criminal fines and restitution — including a \$2.8 billion criminal fine for the German automaker Volkswagen AG — had already been set before Trump took office.

"Based on the data that is public so far," she said, "it appears that the Pruitt EPA is responsible for less than one percent of the total criminal recoveries" in fiscal 2017.

While Giles' impartiality might be questioned, a nonpartisan advocacy group last August found a steep drop in one gauge of enforcement activity during the first six months of the new administration. During that time, EPA and the Justice Department imposed \$12 million in fines on businesses and local governments through lawsuit settlements over alleged pollution violations, according to a report by the Environmental Integrity Project ([Greenwire](#), Aug. 10, 2017).

That was less than half of the combined average of \$30 million in penalties levied under the Clinton, George W. Bush and Obama administrations during comparable periods, the report found.

Patrick Traylor, the deputy head of OECA, responded at the time that the numbers said "much more" about enforcement actions launched in the final years of the Obama administration than it did about any steps newly undertaken under Trump.

At a conference today, the director of EPA's air enforcement division said the desire to create a "level playing field" is in large part driving enforcement efforts at EPA.

"It means that law enforcement has to think about the impact of enforcing against one entity and not others," Phillip Brooks said at an annual gathering of environmental lawyers hosted by the American Law Institute.

In the air division, Brooks said mobile sources have been a big enforcement priority since the Volkswagen diesel-emissions scandal. EPA is "spending a considerable portion of our effort" focusing on "after-market tuning," or software that allows vehicles to exceed pollution limits, he said.

"This poses a significant threat to air quality, especially in those areas where states are struggling with ozone attainment," he said. "So you can expect us to be spending some serious time on that."

Brooks also responded to criticism of a memo last year by Attorney General Jeff Sessions barring third parties from receiving money as part of settlement agreements, except in limited circumstances. Critics have said that the policy would affect supplemental environmental projects that have made up a key part of settlements to resolve environmental enforcement actions.

Pollution-mitigation projects would continue to be a part of settlement agreements in enforcement proceedings, Brooks said.

"It's not an eradication of the idea. It's a refinement of the idea," Brooks said of the Sessions memo. "And this idea of pushing for mitigation where appropriate remains a part of the enforcement portfolio."

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FINANCE

Fla., Texas 'highly exposed' to climate risks — Moody's

Benjamin Hulac, E&E News reporter

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Florida and Texas are "highly exposed" to the effects of climate change but remain financially strong, despite the havoc hurricanes wreaked last year, Moody's Investors Service said.

Moody's gave both states clean bills of health, saying the destruction Hurricanes Irma and Harvey left didn't affect their strong credit ratings — their lifelines to borrow easy money.

In a [note](#), the ratings agency said Florida and Texas "are highly exposed to climate change, especially rising sea levels and stronger, more frequent storms along their economically vital coastlines."

Moody's analysts cited the states' diverse and expanding economies and "significant" resources from Washington, D.C. — in the forms of disaster aid from the Federal Emergency Management Agency and federally backed flood insurance — to explain their conclusions.

As the science that underpins climate change continues to sharpen, financial analysts are grappling over how to determine the economic risks the phenomenon poses regionally and globally. And while scientists say extreme weather is becoming more common due to climate change, there are also more people living in areas where disasters are known to strike, such as South Florida and coastal Texas.

The number of U.S. residents "substantially" affected by hurricanes will jump by more than five times by 2075, according to the nonpartisan Congressional Budget Office ([Climatewire](#), Nov. 6, 2017).

Nicholas Samuels, one of the report authors, said states like Florida are highly exposed to climate risks because extreme weather is more frequent and a lot of people live in harm's way. "It's both," Samuels said.

Fires and floods were the most destructive hazards last year, [according](#) to CoreLogic, a research group.

Flooding damage from Harvey and Irma alone cost from \$69 billion to \$105 billion, CoreLogic said.

"The bulk of the burden of disaster relief funding is paid for by the federal government," Samuels said.

After a disaster, federal dollars and insurance payouts often lead to a jump in revenue in the local economy, Genevieve Nolan, who also worked on the report, said. "You'll see an uptick," she said.

Critics of FEMA say the agency's flood maps — diagrams that show who is at risk for a flood and the likelihood they will be affected — do not properly consider the risks of climate change.

A report by the inspector general for the Department of Homeland Security, which includes FEMA and its National Flood Insurance Program, found that less than half — 42 percent — of the territory FEMA flood maps cover is "updated and valid." The IG's office based its work on 2016 data ([Climatewire](#), Oct. 2, 2017).

Samuels said the report takes FEMA flood maps at face value. "We're accepting that the FEMA maps are what they are," he said.

That doesn't mean he and his colleagues don't take the risks seriously.

"We're sitting in a building in lower Manhattan that is certainly in a flood zone," he said over the phone.

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Final EPA toxic chemical rule proposes \$20 million in annual fees to manufacturers

BY MIRANDA GREEN - 02/08/18 11:12 AM EST

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The Environmental Protection Agency's (EPA) fourth and final rulemaking to revamp a chemical safety rule would collect more than \$20 million annually from chemical and petroleum manufacturers and distributors.

The proposed fees rule under the amended Toxic Substances Control Act (TSCA), announced Thursday, would collect approximately \$20.05 million a year from companies that manufacture or import, distribute in commerce, or process chemical substances, according to EPA's copy of the rule. The fees could also impact petroleum and coal products and chemical, petroleum and merchant wholesalers, according to the rule.

The text of the rule said the fee total does not include the fees collected for manufacturer-requested risk evaluations. Under the proposed rule, businesses would begin incurring fees at the start of October.

The EPA said the fee is meant to defray some of the agency costs associated with implementing TSCA and will be added to the TSCA Service Fee Fund held at the U.S. Treasury.

"These fees are intended to achieve the goals articulated by Congress to provide a sustainable source of funds for EPA to fulfill its legal obligations to conduct activities such as risk-based screenings, designation of applicable substances as High- and Low-Priority, conducting risk 5 evaluations to determine whether a chemical substance presents an unreasonable risk of injury to health or the environment, requiring testing

of chemical substances and mixtures, and evaluating and reviewing manufacturing and processing notices, as required under TSCA," the rule said.

EPA Administrator Scott Pruitt said the fee would ensure that TSCA be implemented with the "highest standards."

"EPA has moved swiftly to implement the amended TSCA requirements. Our proposed TSCA fees rule ensures we have sufficient resources to review chemicals for safety with the highest scientific standards," Pruitt said in a statement.

A chemical safety law passed last year required the EPA to update several internal procedures related to the risk evaluation process for toxic chemicals.

However, some of the previously proposed rules have been met with heavy pushback. Several environmental groups sued the EPA in December over rules the agency published in July that determined which uses of chemicals the agency will assess before allowing the chemicals to be sold on the open market.

In their lawsuit the groups said the agency watered down the rules and weakened the chemical review process compared to the proposed regulations issued by the Obama administration.

"After Congress took bipartisan action to make desperately needed updates to our chemical safety laws, the Trump administration has turned back the clock, leaving families and workers at risk," said Eve Gartner, an attorney at Earthjustice, which filed the lawsuit in federal court.

The groups argue the new rules provide "loopholes" for chemical manufacturers.

The EPA said in June the rules "clearly [define] important scientific terms to ensure transparency and confidence in the risk evaluation process" and ensure "that the agency's resources are focused on those uses that may pose the greatest risk."

TAGS SCOTT PRUITT TSCA CHEMICALS MANUFACTURE OIL PETROLEUM SAFETY FEE

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